

H.713

Introduced by Representative LaLonde of South Burlington

Referred to Committee on

Date:

Subject: Court procedure; calculation of time

Statement of purpose of bill as introduced: This bill proposes to make clear that when the Vermont statutes establish periods of time of less than 11 days in court proceedings, the period of time means less than 11 business days.

An act relating to calculating time periods in court proceedings

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 4 V.S.A. § 961(a) is amended to read:

(a) Any person who fails to return a completed questionnaire within ten business days of its receipt may be summoned by the ~~superior court~~ Superior Court clerk to appear forthwith before the clerk to fill out a jury questionnaire.

Any person so summoned who fails to appear as directed shall be ordered forthwith by the presiding judge to appear and show cause for his or her failure to comply with the summons. Any person who fails to appear pursuant to such order or who fails to show good cause for noncompliance may be found in contempt of court and shall be subject to the penalties for contempt.

1 Sec. 2. 6 V.S.A. § 4996(b) is amended to read:

2 (b) If the Secretary issues an emergency order under this chapter, the
3 person subject to the order may request a hearing before the Civil Division of
4 Superior Court. Notice of the request for hearing under this subdivision shall
5 be filed with the Civil Division of Superior Court and the Secretary within five
6 business days of receipt of the order. A hearing on the emergency order shall
7 be held at the earliest possible time and shall take precedence over all other
8 hearings. The hearing shall be held within five business days of receipt of the
9 notice of the request for hearing. A request for hearing on an emergency order
10 shall not stay the order. The Civil Division of the Superior Court shall issue a
11 decision within five business days from the conclusion of the hearing, and no
12 later than 30 days from the date the notice of request for hearing was received
13 by the person subject to the order.

14 Sec. 3. 8 V.S.A. § 3370(b) is amended to read:

15 (b) Service of such process shall be made by delivering and leaving with
16 the Secretary of State two copies thereof and the payment to the Secretary of
17 State of the fee prescribed by law. The Secretary of State shall forthwith mail
18 by registered mail one of the copies of such process to such insurer at its last
19 known principal place of business, and shall keep a record of all process so
20 served upon him or her. Such process shall be sufficient service upon such
21 insurer provided notice of such service and a copy of the process are, within

1 10 business days thereafter, sent by registered mail or on behalf of the director
2 to such insurer at its last known principal place of business, and such insurer's
3 receipt and the affidavit of compliance herewith by or on behalf of the director
4 are filed with the clerk of the court in which such action or proceeding is
5 pending on or before the return date of such process or within such further time
6 as the Court may allow.

7 Sec. 4. 8 V.S.A. § 3383 is amended to read:

8 § 3383. SERVICE UPON THE SECRETARY OF STATE; NOTICE TO
9 DEFENDANT

10 Such service of process shall be made by delivering to and leaving with the
11 Secretary of State or some person in apparent charge of his or her office two
12 copies thereof and the payment to him or her of such fee as is required by
13 12 V.S.A. § 852. The Secretary of State shall forthwith mail by registered mail
14 one of the copies of such process to the defendant at its last known principal
15 place of business and shall keep a record of all processes so served upon him
16 or her. Such service of process is sufficient, provided notice of such service
17 and a copy of the process are sent within 10 business days thereafter by
18 registered mail by plaintiff or plaintiff's attorney to the defendant at its last
19 known principal place of business, and the defendant's receipt, or receipt
20 issued by the post office with which the letter is registered, showing the name
21 of the sender of the letter and the name and address of the person to whom the

1 letter is addressed, and the affidavit of the plaintiff or plaintiff's attorney
2 showing a compliance herewith are filed with the clerk of the court in which
3 such action is pending on or before the date the defendant is required to appear,
4 or within such further time as the court may allow.

5 Sec. 5. 8 V.S.A. § 3384 is amended to read:

6 § 3384. SERVICE UPON OTHER AGENTS; NOTICE TO DEFENDANT

7 Service of process in any such action, suit, or proceeding shall in addition to
8 the manner provided in section 3383 of this title be valid if served upon any
9 person within this State who, in this State on behalf of such insurer, is:

- 10 (1) soliciting insurance; or
11 (2) making, issuing, or delivering any contract of insurance; or
12 (3) collecting or receiving any premium, membership fee, assessment,
13 or other consideration for insurance; and a copy of such process is sent within
14 10 business days thereafter by registered mail by the plaintiff or plaintiff's
15 attorney to the defendant at the last known principal place of business of the
16 defendant, and the defendant's receipt, or the receipt issued by the post office
17 with which the letter is registered, showing the name of the sender of the letter
18 and the name and address of the person to whom the letter is addressed, and
19 the affidavit of the plaintiff or plaintiff's attorney showing a compliance
20 herewith are filed with the clerk of the court in which such action is pending on

1 or before the date the defendant is required to appear, or within such further
2 time as the court may allow.

3 Sec. 6. 8 V.S.A. § 10204 is amended to read:

4 § 10204. EXCEPTIONS

5 This subchapter does not prohibit any of the activities listed in this section.

6 This section shall not be construed to require any financial institution to make
7 any disclosure not otherwise required by law. This section shall not be
8 construed to require or encourage any financial institution to alter any
9 procedures or practices not inconsistent with this subchapter. This section
10 shall not be construed to expand or create any authority in any person or entity
11 other than a financial institution.

12 * * *

13 (19) Disclosure requested pursuant to subpoena, provided that no
14 disclosure shall be made until ten business days after the financial institution
15 has notified the customer that financial information has been requested by
16 subpoena. Such notice shall be served by first class mail to the customer at the
17 most recent address known to the financial institution. The provisions of this
18 subdivision shall not apply where the subpoena is issued by or on behalf of a
19 regulatory, criminal, or civil law enforcement agency.

20 * * *

1 Sec. 7. 8 V.S.A. § 19108 is amended to read:

2 § 19108. APPEAL; RECEIVER

3 The propriety and necessity of the orders issued by the Commissioner under
4 sections 19103 through 19107 of this title shall be open to review upon action
5 brought in the usual form by an aggrieved party within ten business days to the
6 Superior Court of Washington County. No injunction may be issued without
7 prior notice to the Commissioner, and the court, on motion of the
8 Commissioner, may appoint a temporary receiver of a financial institution
9 involved in those proceedings.

10 Sec. 8. 8 V.S.A. § 36103(b) is amended to read:

11 (b) Not later than ten business days after the date on which the
12 Commissioner takes possession and control of the business and assets of a
13 credit union pursuant to subsection (a) of this section, such credit union may
14 apply to the Superior Court of Washington County for an order requiring the
15 Commissioner to show cause why the Commissioner should not be enjoined
16 from continuing such possession and control. Except as provided in this
17 subsection, no court may take any action, except at the request of the
18 Commissioner by regulation or order, to restrain or affect the exercise of
19 powers or functions of the Commissioner as conservator.

1 Sec. 9. 9 V.S.A. § 4025(b) is amended to read:

2 (b) If the company defaults in the performance of its obligation to redeem
3 trading stamps, any rightful holder may file, within three months after the
4 default, a complaint in the Washington Superior Court. Upon the filing of a
5 complaint, the presiding judge shall, upon 10 business days' notice in writing
6 sent by certified mail to the company, summarily hear and forthwith make a
7 determination whether there has been a default. If the presiding judge
8 determines that there has been a default, he or she shall give notice of the
9 determination to the company and if the default is not corrected within
10 10 business days, he or she shall order the clerk of the Court to publish notice
11 of the default in three consecutive publications of one or more newspapers
12 having general circulation throughout this State and therein require that proof
13 of all claims for redemption of the trading stamps of the company shall be filed
14 with the Court, together with the trading stamps upon which the claim is based,
15 within three months after the date of the first publication. Promptly after the
16 expiration of that period, the Court shall determine the validity of all claims so
17 filed. Thereupon, the Court shall be paid by the surety such amount as shall be
18 necessary to satisfy all valid claims so filed, not exceeding, however, the
19 principal sum of the bond. Upon the failure to pay the amount demanded, the
20 Court shall notify the Attorney General who shall bring an action in a Court of
21 record, to recover the amount demanded. Upon payment or recovery of the

1 amount demanded, the clerk of the Court shall promptly thereafter make an
2 equitable distribution of the proceeds of the bond to the claimants and shall
3 promptly destroy the trading stamps so surrendered.

4 Sec. 10. 9 V.S.A. § 4469a(e) is amended to read:

5 (e) If the Court finds that the farm employer has suffered actual hardship
6 because of the unavailability of the farm housing for a replacement employee,
7 the Court shall enter an order approving a writ of possession, which shall be
8 executed no sooner than five business days nor later than 30 days after the writ
9 is served, to put the plaintiff into possession.

10 Sec. 11. 9 V.S.A. § 5602(f) is amended to read:

11 (f) Unless presented by an emergency or exigent circumstances, the
12 Commissioner shall give notice to the Attorney General and U.S. Attorney not
13 less than five business days before applying to the Washington County
14 Superior Court to compel the testimony, the filing of the statement, the
15 production of the record, or the giving of other evidence under subsection (e)
16 of this section. In the case of an emergency or exigent circumstances, the
17 Commissioner shall notify the Attorney General and U.S. Attorney as soon as
18 possible before applying to the Washington County Superior Court.

1 Sec. 12. 10 V.S.A. § 8009 is amended to read:

2 § 8009. EMERGENCY ADMINISTRATIVE ORDERS; REQUEST FOR
3 HEARING

4 * * *

5 (d) Request for hearing. If an emergency order is issued, the respondent
6 may request a hearing before the Environmental Division. Notice of the
7 request for hearing shall be filed with the Environmental Division and the
8 agency issuing the order within five business days of receipt of the order. A
9 hearing on the emergency order shall be held at the earliest possible time and
10 shall take precedence over all other hearings. The hearing shall be held within
11 five business days of receipt of the notice of the request for hearing. A request
12 for hearing on an emergency order shall not stay the order. The Environmental
13 Division shall issue a decision within five business days from the conclusion of
14 the hearing, and no later than 30 days from the date the notice of request for
15 hearing was received.

16 * * *

17 Sec. 13. 11 V.S.A. § 1534 is amended to read:

18 § 1534. APPOINTMENT OF COMMISSIONERS, HEARING

19 If sufficient cause is shown, the court shall appoint three disinterested
20 persons as commissioners, who shall fix a time and place for hearing, and give
21 reasonable notice thereof to those who defend. If, at the time of giving such

1 notice, a person has not entered to defend, the commissioners shall give notice
2 of such hearing by posting a notice thereof, at least ten business days before
3 such hearing, in three or more public places in the town in which such
4 corporation or society is located.

5 Sec. 14. 11C V.S.A. § 1210(b) is amended to read:

6 (b) Not later than 10 business days after filing an application under
7 subsection (a) of this section, a dissolved mutual benefit enterprise shall give
8 notice of the proceeding to each known claimant holding a contingent claim.

9 Sec. 15. 12 V.S.A. § 2432 is amended to read:

10 § 2432. PASSING CAUSES TO SUPREME COURT; RECOGNIZANCE IN
11 EJECTMENT CASES

12 In actions brought under the provisions of sections 4851-4853 of this title,
13 within three business days after judgment, the appealing party shall give
14 security to the other party by way of recognizance or bond approved by the
15 court to pay the costs as the other party shall finally recover against him. If the
16 appealing party is the defendant, he or she shall also give the security as above
17 provided for rents then due and intervening rent. If final judgment is for the
18 plaintiff, the costs, damages, and rents may be recovered by an action upon the
19 recognizance or an action on contract founded on the judgment.

1 Sec. 16. 12 V.S.A. § 2791 is amended to read:

2 § 2791. RETURN OF EXECUTION

3 The officer commencing proceedings for sale on execution of real estate or
4 the right to collect and receive rents, issues and profits thereof, may make such
5 sale, although the return day of the execution has passed, and shall return the
6 execution within five business days after the sale. A failure to make such
7 return shall not affect the purchaser's title to the property.

8 Sec. 17. 12 V.S.A. § 2796 is amended to read:

9 § 2796. REDEMPTION-BOND; WRIT OF POSSESSION; ACCOUNTING
10 BY PURCHASER FOR RENTS AND PROFITS

11 When real estate is sold on execution, the debtor or person claiming under
12 him or her may redeem the same at any time within six months from the date
13 of such sale. He or she shall file a bond within ten business days after such
14 sale with the clerk of the court or magistrate who issued such execution, to the
15 purchaser, in a penal sum that the clerk or magistrate shall order, conditioned
16 in case he or she does not redeem the property to pay the purchaser the fair
17 rents and profits of such premises and commit no waste on the same, which
18 bond shall be approved by the clerk or magistrate. When the debtor fails to file
19 the bond as aforesaid, the purchaser may have his or her writ of possession
20 from the clerk or magistrate, and may enter and take possession and manage
21 such real estate in a good husbandlike manner. If the defendant in such action

1 shall redeem the same, the purchaser shall account for the fair value of the
2 rents and profits thereof, until the same shall be redeemed.

3 Sec. 18. 12 V.S.A. § 4853a is amended to read:

4 § 4853a. PAYMENT OF RENT INTO COURT; EXPEDITED HEARING

5 * * *

6 (b) A hearing on the motion shall be held any time after 10 ~~days~~ business
7 days' notice to the parties. If the tenant appears at the hearing and has not been
8 previously defaulted, the court shall not enter judgment by default unless the
9 tenant fails to file a written answer within 10 business days after the hearing.

10 Any rent escrow order shall remain in effect notwithstanding the issuance of a
11 default judgment but shall cease upon execution of a writ of possession.

12 * * *

13 (h) If the tenant fails to pay rent into court in the amount and on the dates
14 ordered by the court, the landlord shall be entitled to judgment for immediate
15 possession of the premises. The court shall forthwith issue a writ of possession
16 directing the sheriff of the county in which the property or a portion thereof is
17 located to serve the writ upon the defendant and, no sooner than five business
18 days after the writ is served, or, in the case of an eviction brought pursuant to
19 10 V.S.A. chapter 153, 30 days after the writ is served, to put the plaintiff into
20 possession.

1 Sec. 19. 12 V.S.A. § 4854 is amended to read:

2 § 4854. JUDGMENT FOR PLAINTIFF; WRIT OF POSSESSION

3 If the court finds that the plaintiff is entitled to possession of the premises,
4 the plaintiff shall have judgment for possession and rents due, damages, and
5 costs, and when a written rental agreement so provides, the court may award
6 reasonable attorney's fees. A writ of possession shall issue on the date
7 judgment is entered, unless the court for good cause orders a stay. The writ
8 shall direct the sheriff of the county in which the property or a portion thereof
9 is located to serve the writ upon the defendant and, no sooner than ten business
10 days after the writ is served, to put the plaintiff into possession.

11 Sec. 20. 12 V.S.A. § 4914 is amended to read:

12 § 4914. COMPLAINT AND WARRANT

13 When a complaint is formally made in writing, to a district judge of such
14 unlawful or forcible entry or detainer, he or she shall issue a warrant returnable
15 within such county not less than six business days thereafter, which shall be
16 directed to the sheriff, commanding such officer to apprehend the person
17 against whom such complaint is made and bring him or her before the district
18 judge having jurisdiction.

1 Sec. 21. 12 V.S.A. § 4919 is amended to read:

2 § 4919. PROCEEDINGS WHEN RESPONDENT CANNOT BE FOUND

3 When the sheriff or his or her deputy cannot find the party against whom
4 the warrant is issued, six business days before the time appointed for returning
5 the same, he or she may leave a true and attested copy thereof at the usual
6 place of abode of such person. If, at the return of the warrant, he or she cannot
7 find or apprehend the person against whom it issued, he or she shall make a
8 return of such fact of the time he or she so left a copy. If the party complained
9 against does not appear at the time appointed for trial, a district judge, in his or
10 her discretion, may adjourn or proceed with the case, but shall not impose a
11 fine at such hearing.

12 Sec. 22. 12 V.S.A. § 4933(c) is amended to read:

13 (c) Acceptance of a foreclosure complaint by the court clerk that, due to a
14 good faith error or omission by the plaintiff or the clerk, does not contain the
15 certification required in subsection (a) of this section shall not invalidate the
16 foreclosure proceeding, provided that the plaintiff files the required notice with
17 the Commissioner within 10 business days of obtaining knowledge of the error
18 or omission.

19 Sec. 23. 12 V.S.A. § 5134(b) is amended to read:

20 (b) Every order issued under this section shall contain the name of the
21 court, the names of the parties, the date of the petition, and the date and time of

1 the order and shall be signed by the judge. Every order issued under this
2 section shall state upon its face a date, time, and place that the defendant may
3 appear to petition the court for modification or discharge of the order. This
4 opportunity to contest shall be scheduled as soon as reasonably possible, which
5 in no event shall be more than 10 business days from the date of issuance of
6 the order. At such hearings, the plaintiff shall have the burden of proving by a
7 preponderance of the evidence that the defendant stalked or sexually assaulted
8 the plaintiff. If the court finds that the plaintiff has met his or her burden, it
9 shall continue the order in effect and make such other orders as it deems
10 necessary to protect the plaintiff or the plaintiff's children, or both.

11 Sec. 24. 13 V.S.A. § 354 is amended to read:

12 § 354. ENFORCEMENT; POSSESSION OF ABUSED ANIMAL;
13 SEARCHES AND SEIZURES; FORFEITURE

14 * * *

15 (f)(1) At the hearing on the motion for forfeiture, the State shall have the
16 burden of establishing by clear and convincing evidence that the animal was
17 subjected to cruelty, neglect, or abandonment in violation of section 352 or
18 352a of this title. The Court shall make findings of fact and conclusions of law
19 and shall issue a final order. If the State meets its burden of proof, the Court
20 shall order the immediate forfeiture of the animal in accordance with the
21 provisions of subsection 353(c) of this title.

1 (2) Affidavits of law enforcement officers, humane officers, animal
2 control officers, veterinarians, or expert witnesses of either party shall be
3 admissible evidence which may be rebutted by witnesses called by either party.
4 The affidavits shall be delivered to the other party at least five business days
5 prior to the hearing. Upon request of the other party or the Court, the party
6 offering an affidavit shall make the affiant available by telephone at the
7 hearing. The Court may allow any witness to testify by telephone in lieu of a
8 personal appearance and shall adopt rules with respect to such testimony.

9 (3) No testimony or other information presented by the defendant in
10 connection with a forfeiture proceeding under this section or any information
11 directly or indirectly derived from such testimony or other information may be
12 used for any purpose, including impeachment and cross-examination, against
13 the defendant in any criminal case, except a prosecution for perjury or giving a
14 false statement.

15 (g)(1) If the defendant is convicted of criminal charges under this chapter
16 or if an order of forfeiture is entered against an owner under this section, the
17 defendant or owner shall be required to repay all reasonable costs incurred by
18 the custodial caregiver for caring for the animal, including veterinary expenses.
19 The Restitution Unit within the Center for Crime Victim Services is authorized
20 to collect the funds owed by the defendant or owner on behalf of the custodial
21 caregiver or a governmental agency that has contracted or paid for custodial

1 care in the same manner as restitution is collected pursuant to section 7043 of
2 this title. The restitution order shall include the information required under
3 subdivision 7043(e)(2)(A) of this title. The Court shall make findings with
4 respect to the total amount of all costs incurred by the custodial caregiver.

5 (2)(A) If the defendant is acquitted of criminal charges under this
6 chapter and a civil forfeiture proceeding under this section is not pending, an
7 animal that has been taken into custodial care shall be returned to the defendant
8 unless the State institutes a civil forfeiture proceeding under this section within
9 seven business days of the acquittal.

10 (B) If the Court rules in favor of the owner in a civil forfeiture
11 proceeding under this section and criminal charges against the owner under
12 this chapter are not pending, an animal that has been taken into custodial care
13 shall be returned to the owner unless the State files criminal charges under this
14 section within seven business days after the entry of final judgment.

15 * * *

16 Sec. 25. 13 V.S.A. § 2451(c) is amended to read:

17 (c) It shall be a defense to a charge of keeping a child from the child's
18 lawful custodian that the person charged with the offense was acting in good
19 faith to protect the child from real and imminent physical danger. Evidence of
20 good faith shall include, ~~but is not limited to,~~ the filing of a non-frivolous
21 petition documenting that danger and seeking to modify the custodial decree in

1 a Vermont court of competent jurisdiction. This petition must be filed within
2 ~~72 hours~~ three business days of the termination of visitation rights. This
3 defense shall not be available if the person charged with the offense has left the
4 ~~state~~ State with the child.

5 Sec. 26. 13 V.S.A. § 5403(b) is amended to read:

6 (b) Within 10 business days after sentencing, the Court shall forward to the
7 Department:

8 (1) the sex offender's conviction record, including offense, date of
9 conviction, sentence, and any conditions of release or probation;

10 (2) an order issued pursuant to section 5405a of this title, on a form
11 developed by the Court Administrator, that the defendant comply with Sex
12 Offender Registry requirements.

13 Sec. 27. 13 V.S.A. § 5405(h) is amended to read:

14 (h) After making its determinations, the court shall issue a written decision
15 explaining the reasons for its determinations and provide a copy of the decision
16 to the department within 10 business days.

17 Sec. 28. 13 V.S.A. § 5405a is amended to read:

18 § 5405a. COURT DETERMINATION OF SEX OFFENDER REGISTRY
19 REQUIREMENTS

20 (a)(1) The Court shall determine at sentencing whether Sex Offender
21 Registry requirements apply to the defendant.

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(e) The appeal in all cases shall be taken within seven business days after the decision, judgment, or order has been rendered. In cases where the defendant is detained for lack of bail, he or she shall be released pending the appeal upon such conditions as the Court shall order unless bail is denied as provided in the Vermont Constitution or in other pending cases. Such appeals shall take precedence on the docket over all cases and shall be assigned for hearing or argument at the earliest practicable date and expedited in every way.

Sec. 31. 13 V.S.A. § 7556 is amended to read:

§ 7556. APPEAL FROM CONDITIONS OF RELEASE

* * *

(e) A person held without bail prior to trial shall be entitled to review of that determination by a panel of three ~~supreme court justices~~ Supreme Court Justices within seven business days after bail is denied.

Sec. 32. 13 V.S.A. § 7560a(b) is amended to read:

(b) The surety may respond to a motion to forfeit a bond. Responses must be served within 10 business days of service of the motion.

1 Sec. 33. 14 V.S.A. § 2625(f) is amended to read:

2 (f)(1) The Court may grant an emergency guardianship petition filed ex
3 parte by the proposed guardian if the Court finds that:

4 (A) both parents are deceased or medically incapacitated; and

5 (B) the best interests of the child require that a guardian be appointed
6 without delay and before a hearing is held.

7 (2) If the Court grants an emergency guardianship petition pursuant to
8 subdivision (1) of this subsection (e), it shall schedule a hearing on the petition
9 as soon as practicable and in no event more than ~~72 hours~~ three business days
10 after the petition is filed.

11 Sec. 34. 14 V.S.A. § 2671(h) is amended to read:

12 (h) The person under guardianship may, at any time, file a motion to
13 revoke the guardianship. Upon receipt of the motion, the court shall give
14 notice as provided by the rules of probate procedure. Unless the guardian files
15 a motion pursuant to section 3063 of this title within ten business days from
16 the date of the notice, the court shall enter judgment revoking the guardianship
17 and shall provide the ward and the guardian with a copy of the judgment.

18 Sec. 35. 14 V.S.A. § 3067(d) is amended to read:

19 (d) The proposed guardian shall provide the court with the information and
20 consents necessary for a complete background check. Not more than
21 10 business days after receipt of an evaluation supporting guardianship of the

1 respondent, the court shall order from the respective registries background
2 checks of the proposed guardian from any available state registries, including
3 but not limited to the adult abuse registry, child abuse registry, Vermont ~~crime~~
4 ~~information center~~ Crime Information Center, and the Vermont ~~state sex~~
5 ~~offender registry~~ State Sex Offender Registry, and the court shall consider
6 information received from the registries in determining whether the proposed
7 guardian is suitable. However, if appropriate under the circumstances, the
8 court may waive the background reports or may proceed with appointment of a
9 guardian prior to receiving the background reports, provided that the court may
10 remove a guardian if warranted by background reports which the court receives
11 after the guardian's appointment. If the proposed guardian has lived in
12 Vermont for fewer than five years or is a resident of another state, the court
13 may order background checks from the respective state registries of the states
14 in which the proposed guardian lives or has lived in the past five years or from
15 any other source. The court shall provide copies of background check reports
16 to the petitioner, the respondent, and the respondent's attorney.

17 Sec. 36. 14 V.S.A. § 3081(c) is amended to read:

18 (c) An emergency temporary guardian may be appointed without notice to
19 the respondent or respondent's counsel only if it clearly appears from specific
20 facts shown by affidavit or sworn testimony that immediate, serious, and
21 irreparable harm will result to the respondent before the hearing on the

1 appointment of an emergency temporary guardian can be held. A request for
2 ex parte emergency temporary guardianship under this section shall be made
3 by written motion, accompanied by a petition for guardianship, unless waived
4 by the court for good cause shown. If the court appoints an ex parte
5 emergency temporary guardian, the court shall immediately schedule a
6 temporary hearing in accordance with subsection (b) of this section. The
7 ex parte order shall state why the order was granted without notice and include
8 findings on the immediate, serious, and irreparable harm. The ex parte order
9 shall be for a fixed period of time, not to exceed 10 business days, and shall
10 expire on its terms unless extended after the temporary hearing. If the
11 temporary hearing cannot be held before the ex parte order expires, the
12 ex parte order can be extended for good cause shown for an additional
13 10 business days until the temporary hearing is held.

14 Sec. 37. 23 V.S.A. § 1205 is amended to read:

15 § 1205. CIVIL SUSPENSION; SUMMARY PROCEDURE

16 * * *

17 (c) Notice of suspension. On behalf of the Commissioner of Motor
18 Vehicles, a law enforcement officer requesting or directing the administration
19 of an evidentiary test shall serve notice of intention to suspend and of
20 suspension on a person who refuses to submit to an evidentiary test or on a
21 person who submits to a test the results of which indicate that the person's

1 alcohol concentration was above a legal limit specified in subsection 1201(a)
2 or (d) of this title, at the time of operating, attempting to operate, or being in
3 actual physical control of a vehicle in violation of section 1201 of this title.
4 The notice shall be signed by the law enforcement officer requesting the test.
5 A copy of the notice shall be sent to the Commissioner of Motor Vehicles and
6 a copy shall be mailed or given to the defendant within three business days of
7 the date the officer receives the results of the test. If mailed, the notice is
8 deemed received three days after mailing to the address provided by the
9 defendant to the law enforcement officer. A copy of the affidavit of the law
10 enforcement officer shall also be mailed first class mail or given to the
11 defendant within seven business days of the date of notice.

12 (d) Form of notice. The notice of intention to suspend and of suspension
13 shall be in a form prescribed by the Supreme Court. The notice shall include
14 an explanation of rights, a form to be used to request a hearing, and, if a
15 hearing is requested, the date, time, and location of the Criminal Division of
16 the Superior Court where the person must appear for a preliminary hearing.
17 The notice shall also contain, in boldface print, the following:

18 * * *

19 (3) If you wish to request a hearing before the Criminal Division of the
20 Superior Court, you must mail or deliver your request for a hearing within
21 seven business days after (date of notice).

* * *

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1 permitted to raise any other evidence at the final hearing, and all other
2 evidence shall be inadmissible.

3 * * *

4 (j) Venue and conduct of hearings. Venue for proceedings under this
5 section shall be in the territorial unit of the Superior Court where the offense is
6 alleged to have occurred. Hearings under this section shall be summary
7 proceedings conducted by the Criminal Division of the Superior Court without
8 a jury and shall be subject to the Vermont Rules of Civil Procedure only as
9 consistent with this section. The State has the burden of proof by a
10 preponderance of the evidence. Affidavits of law enforcement officers,
11 chemists of either party, or expert witnesses of either party shall be admissible
12 evidence which may be rebutted by witnesses called by either party. The
13 affidavits shall be delivered to the other party at least five business days prior
14 to the hearing.

15 * * *

16 Sec. 38. 23 V.S.A. § 1746 is amended to read:

17 § 1746. VIOLATIONS; ADMISSION; WAIVER

18 Any person who has violated any ordinance of the town which regulates,
19 districts or defines the time, place, or manner of parking vehicles in the town
20 and who has not been convicted of any violation of the parking ordinances
21 more than twice before in the same calendar year may, within three business

1 days from the date of such violation, by a statement signed by him or her admit
2 the violation and waive the issuance of any process and a trial by jury or
3 hearing, and may voluntarily pay to the police court of the town the penalty
4 herein prescribed; provided, however, that whenever in the opinion of the court
5 the gravity of the offense requires a fine in excess of the prescribed penalty, as
6 provided in section 1749 of this title, the court may refuse to accept the signed
7 statement and penalty and refer the matter to the grand juror or State's
8 Attorney who may proceed against the offender in the manner prescribed by
9 law. In that event, the signed statement and penalty shall be returned to the
10 offender and shall not be considered as an admission or used as evidence in
11 any court in this State.

12 Sec. 39. 27 V.S.A. § 143(a) is amended to read:

13 (a) When the spouse of an owner of a homestead lacks capacity to protect
14 his or her interests due to a mental condition or psychiatric disability and the
15 owner desires to convey it or an interest therein, he or she may petition the
16 Probate Division of the Superior Court in the district in which the homestead is
17 situated for a license to convey the same. Upon not less than ten business
18 days' notice of the petition to the kindred of the spouse who lacks capacity to
19 protect his or her interests due to a mental condition or psychiatric disability
20 residing in the State, and to the selectboard members of the town in which the
21 homestead is situated, which notice may be personal or by publication, the

1 Court may hear and determine the petition and may license the owner or
2 convey the homestead, or an interest therein, by his or her sole deed. The
3 license shall be recorded in the office where a deed of the homestead is
4 required to be recorded and the sole deed shall have the same effect as if the
5 spouse has the capacity to protect his or her interests and had joined therein.

6 Sec. 40. 27 V.S.A. § 372 is amended to read:

7 § 372. PROCEEDINGS WHEN GRANTOR REFUSES TO

8 ACKNOWLEDGE-SUMMONS

9 When a grantor or lessor refuses to acknowledge his or her deed, the grantee
10 or lessee, or a person claiming under him or her, may apply to a district judge
11 who shall thereupon issue a summons to the grantor or lessor to appear at a
12 certain time and place before him or her to hear the testimony of the
13 subscribing witnesses to the deed. Such summons, with a copy of the deed
14 annexed, shall be served like a writ of summons, seven business days at least
15 before the time therein assigned for proving the deed.

16 Sec. 41. 27 V.S.A. § 378 is amended to read:

17 § 378. EFFECT OF RECORDING UNACKNOWLEDGED DEED

18 A person interested in a deed or lease not acknowledged may cause the deed
19 or lease to be recorded without acknowledgment before or during the
20 application to the court, or the proceedings before any of the authorities named
21 in sections 371-376 of this title; and, when so recorded in the proper office, it

1 shall be as effectual as though the same had been duly acknowledged and
2 recorded for 60 days thereafter. If such proceedings for proving the execution
3 of the deed are pending at the expiration of such 60 days, the effect of such
4 record shall continue until the expiration of six business days after the
5 termination of the proceedings.

6 Sec. 42. 32 V.S.A. § 642(a)(3)(F) is amended to read:

7 (F) The date prescribed for the commencement of oral testimony
8 pursuant to a civil investigative demand issued under this section shall be a
9 date which is not less than seven business days after the date on which demand
10 is received, unless the Attorney General or an Assistant Attorney General
11 designated by the Attorney General determines that exceptional circumstances
12 are present which warrant the commencement of such testimony within a lesser
13 period of time.

14 Sec. 43. 32 V.S.A. § 4461(b) is amended to read:

15 (b) On or before the last day on which appeals may be taken from the
16 decision of the board of civil authority, the agent of the town to prosecute and
17 defend suits in which the town is interested, in the name of the town, on
18 written application of one or more taxpayers of the town whose combined
19 grand list represents at least three percent of the grand list of the town for the
20 preceding year, shall appeal to the Superior Court from any action of the board
21 of civil authority not involving appeals of the applying taxpayers. However,

1 the town agent shall, in any event, have at least six business days after receipt
2 of such taxpayers' application for appeal in which to take the appeal, and the
3 date for the taking of such appeal shall accordingly be extended, if necessary,
4 until the six business days shall have elapsed. The \$70.00 entry fee shall be
5 paid by the applicants with respect to each individual property thus being
6 appealed which is separately listed in the grand list.

7 Sec. 44. 32 V.S.A. § 4463 is amended to read:

8 § 4463. OBJECTIONS TO APPEAL

9 When a taxpayer, town agent, or selectboard claims that an appeal to the
10 Director is in any manner defective or was not lawfully taken, on or before
11 10 business days after mailing of the notice of appeal by the clerk under Rule
12 74(b) of the Vermont Rules of Civil Procedure, the taxpayer, town agent, or
13 selectboard shall file objections in writing with the Director, and furnish the
14 appellant or appellant's attorney with a copy of the objections. When the
15 taxpayer, town agent, or selectboard so requests, the Director shall thereupon
16 fix a time and place for hearing the objections, and shall notify all parties
17 thereof, by mail or otherwise. Upon hearing or otherwise, the Director shall
18 pass upon the objections and make such order in relation thereto as is required
19 by law. The order shall be recorded or attached in the town clerk's office in
20 the book wherein the appeal is recorded.

1 Sec. 45. 32 V.S.A. § 5412(a) is amended to read:

2 (a)(1) If a listed value is reduced as the result of an appeal or court action,
3 and if the municipality files a written request with the Commissioner within
4 30 days after the date of the determination, entry of the final order, or
5 settlement agreement if the Commissioner determines that the settlement value
6 is the fair market value of the parcel, the Commissioner shall recalculate the
7 municipality's education property tax liability for the year at issue, in accord
8 with the reduced valuation, provided that:

9 (A) the reduction in valuation is the result of an appeal under chapter
10 131 of this title to the Director of Property Valuation and Review or to a court,
11 with no further appeal available with regard to that valuation, or any judicial
12 decision with no further right of appeal, or a settlement of either an appeal or
13 court action if the Commissioner determines that the settlement value is the
14 fair market value of the parcel;

15 (B) the municipality notified the Commissioner of the appeal or court
16 action, in writing, within 10 business days after notice of the appeal was filed
17 under section 4461 of this title or after the complaint was served; and

18 (C) as a result of the valuation reduction of the parcel, the value of
19 the municipality's grand list is reduced at least one percent.

1 Sec. 46. 32 V.S.A. § 5843 is amended to read:

2 § 5843. FAILURE TO ACCOUNT; MAINTENANCE OF TRUST

3 ACCOUNT

4 If a person fails at any time to comply with the Commissioner's
5 requirement under ~~subdivision~~ subsection 5842(b) of this title to remit amounts
6 deducted and withheld at such intervals and based upon such classifications as
7 the Commissioner designates, the Commissioner may petition the Superior
8 Court wherein the person has a place of business, and, upon the petition and
9 hearing, a judge of that Court shall issue a citation declaring any amounts
10 thereafter deducted and withheld by the person under section 5841 of this title
11 to be a trust for the State of Vermont. That order shall further require the
12 person, (and, if the person is a corporation, any principal officer of the
13 corporation), to remit those amounts as the Commissioner has required to, and
14 to file a return with respect to each of those payments under the terms of this
15 subchapter with, the Court upon pain of contempt of court. The order of notice
16 upon the petition shall be returnable not later than seven business days after the
17 filing of the petition. The petition shall be heard and determined on the return
18 day, or on such day as soon thereafter as the Court considers practicable and
19 shall fix, having regard to the circumstances of the case. The costs of the
20 proceeding shall be payable as the Court determines. The remittance of those
21 amounts shall be made to the court or, if the court so directs, to the

1 Commissioner, as the Commissioner has required for such period of time as
2 the Commissioner determines with the approval of the Court, whether or not
3 all tax liabilities theretofore due have been satisfied, having regard to the
4 maintenance of regular future payments by the person. All amounts and all
5 returns received by the Court under this section shall be remitted as soon as is
6 practicable by the Court to the Commissioner.

7 Sec. 47. 32 V.S.A. § 9280(d) is amended to read:

8 (d) As an additional or alternate remedy, the Commissioner may issue a
9 warrant, directed to the sheriff of any county commanding him or her to levy
10 upon and sell the real and personal property of any person liable for the tax,
11 which may be found within his or her county, for the payment of the amount
12 thereof, with any penalties and interest, and the cost of executing the warrant,
13 and to return the warrant to the Commissioner and to pay to him or her the
14 money collected by virtue thereof within 60 days after the receipt of the
15 warrant. The sheriff shall within five business days after the receipt of the
16 warrant file with the county clerk a copy thereof, and thereupon the clerk shall
17 enter in the judgment docket the name of the person mentioned in the warrant
18 and the amount of the tax, penalties, and interest for which the warrant is
19 issued and the date when the copy is filed. Thereupon, the amount of the
20 warrant so docketed shall become a lien upon the title to and interest in real
21 and personal property of the person against whom the warrant is issued. The

1 sheriff shall then proceed upon the warrant, in the same manner, and with like
2 effect, as that provided by law in respect to executions issued against property
3 upon judgments of a court of record and for services in executing the warrant
4 he or she shall be entitled to the same fees, which he or she may collect in the
5 same manner. If a warrant is returned not satisfied in full, the Commissioner
6 may from time to time issue new warrants and shall also have the same
7 remedies to enforce the amount due thereunder as if the State had recovered
8 judgment therefor and execution thereon had been returned unsatisfied.

9 Sec. 48. 32 V.S.A. § 9811(b) is amended to read:

10 (b) As an additional or alternate remedy, the Commissioner may issue a
11 warrant, directed to the sheriff of any county commanding him or her to levy
12 upon and sell the real and personal property of any person liable for the tax,
13 which may be found within his or her county, for the payment of the amount
14 thereof, with any penalties and interest, and the cost of executing the warrant,
15 and to return the warrant to the Commissioner and to pay to him or her the
16 money collected by virtue thereof within 60 days after the receipt of the
17 warrant. The sheriff shall within five business days after the receipt of the
18 warrant file with the county clerk a copy thereof, and thereupon the clerk shall
19 enter in the judgment docket the name of the person mentioned in the warrant
20 and the amount of the tax, penalties, and interest for which the warrant is
21 issued and the date when the copy is filed. Thereupon the amount of the

1 warrant so docketed shall become a lien upon the title to and interest in real
2 and personal property of the person against whom the warrant is issued. The
3 sheriff shall then proceed upon the warrant, in the same manner, and with like
4 effect, as that provided by law in respect to executions issued against property
5 upon judgments of a court of record and for services in executing the warrant,
6 he or she shall be entitled to the same fees, which he or she may collect in the
7 same manner. If a warrant is returned not satisfied in full, the Commissioner
8 may from time to time issue new warrants and shall also have the same
9 remedies to enforce the amount due thereunder as if the State had recovered
10 judgment therefor and execution thereon had been returned unsatisfied.

11 Sec. 49. EFFECTIVE DATE

12 This act shall take effect on July 1, 2016.